

The Atchison Topeka And Santa Fe

Between San Francisco and Chicago
Via Albuquerque, and Kansas City.
Snead Comfort and Elegance
Pullman 2nd Dining Service Unsurpassed.
Passing through the Grandest Scenery of the West
F W Prince, Agent, 641 Market St. San Francisco Cal

Sacramento Saloon

ANDY TODD, Prop.

The best of liquid refreshments always on tap, including imported
and domestic goods.

Good Cigars are a part of our stock.

You never make a mistake at the old corner.

The Eagle Market

Our Meats are the best, if you are not
satisfied with the place you are trading
call on us. Our motto is "The Best."
A pleased patron means a steady customer

The Eagle Market

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF NEVADA, In and for the County of Ormsby.

Marion W. Bulkley, Plaintiff
vs.
Joseph W. Bulkley, Defendant

Action brought in the District Court
of the First Judicial District of the
State of Nevada, Ormsby County, and
the complaint filed in the said court,
in the office of the Clerk of said Dis-
trict Court on the 21 day of December,
A. D. 1905.

THE STATE OF NEVADA SENDS GREETING TO JOSEPH W. BULKLEY

You are hereby required to appear
in an action brought against you by
the above named Plaintiff, in the Dis-
trict Court of the first Judicial Dis-
trict of the State of Nevada, Ormsby
County, and answer complaint filed
therein within ten days (exclusive of
the day of service) after the service
on you of this Summons is served in
said county, or if served out of said
County, but within the District, twenty
days, in all other cases forty days,
or judgment by default will be taken
against you according to the prayer
of said complaint.

The said action is brought to obtain
the judgment and decree of this court
that the bonds of matrimony heretofore
and now existing and uniting you and
said plaintiff to be forever annulled
and dissolved upon the ground that
at divers times and places since said
marriage you have committed adultery
with one Kate Cottrell, and particu-
larly that from about the 9th day of June
1900 to and including the 13th day
of June, 1900, at the Charing Cross
Hotel in the city of London, Eng-
land, you lived and cohabited with
said Kate Cottrell.

All of which more fully appears
by complaint as filed herein to which
you are hereby referred.
And you are hereby notified that if
you fail to answer the Complaint, the
said Plaintiff will apply to the Court
for the relief herein demanded.

GIVEN under my hand and Seal of the
District Court of the First Judicial
District of the State of Nevada
Ormsby County, this 21 day of Decem-
ber, in the year of our Lord one
thousand nine hundred and Five.

H. B. VAN ETTEN, Clerk.
(SEAL).
Geo. W. Keita,
Attorney for Plaintiff.

Notice of Application for Permission to appropriate the Public Waters of the State of Nevada.

Notice is hereby given that on the
12th day of Sept., 1905, in accordance
with Section 23, Chapter XLVI, of the
Statutes of 1905, one Philip V. Mighels
and Frank L. Wildes of Carson,
County of Ormsby and State of Ne-
vada, made application to the State
Engineer of Nevada for permission to
appropriate the public waters of the
State of Nevada. Such application to
be made from Ash Canyon creek at
points in N E 1/4 of S W 1/4 of section
10 T 15 N R 19 E by means of a dam
and headgate and five cubic feet per
second is to be conveyed to points
in N E 1/4 of S W 1/4 of section 11,
T 15 N R 19 E, by means of a flume
and pipe and there used to generate
electrical power. The construction
of said works shall begin before June
1, 1906, and shall be completed on or
before June 1, 1907. The water shall
be actually applied to a beneficial use
on or before June 1, 1908.

Signed:
HENRY THURTELL,
State Engineer.

SCHOOL APPORTIONMENT, STATE OF NEVADA.

Department of Education,
Office of Superintendent of Public In-
struction.

Carson City, Nevada, July 11, 1905
To the School Officers of Nevada:

Following is a statement of the second
semi-annual apportionment of
School Monies for 1905, on the basis
of \$6,990,202 per census child:

Counties	children	Am't
Churchill	1,135	\$ 843.68
Douglas	317	2,215.90
Elko	1,129	7,829.02
Esmeralda	117	1,516.87
Eureka	383	2,719.20
Humboldt	744	
Lander	313	
Lincoln	766	
Lyon	429	
Nye	25	
Ormsby	929	
Storey	929	
Washoe	2,412	16,869.46
White Pine	525	3,669.81
Total	9,430	\$65,917.62

Joe Platt has received samples of
tailor made suits which are, with
out doubt the finest ever shown in
this city. A number of suits have
already been made and they are per-
fect fits in every case. Get your
measure taken and do it before the
best samples are gone. He guaran-
tees a fit or no pay.

IN THE SUPREME COURT OF THE STATE OF NEVADA.

Appealed From the Fourth Judicial
District Court, Elko County, Ne-
vada.

The State of Nevada,
Plaintiff and Respondent,
against

Paul Lovelace,
Defendant and Appellant.

Attorney General James G. Sweeney,
Attorney for State.

Wm. Woodburn, Attorney for Appel-
lant.

Defendant appeals from a judgment
rendered against him in the District
Court in and for Elko county for the
crime of burglary; and he assigns two
reasons why, as he claims, judgment
should be reversed.

First, the insufficiency of the in-
dictment on which the judgment was
based; and

Second, the absence of corroborat-
ion of the testimony of an accomplice
who testified against the defendant.

Under the first head the point made
is on the proper interpretation of the
following clause in the indictment:

"The said Paul Lovelace on the 11th
day of May, 1904, in the night time of
said day, or thereabouts, in the County
of Elko, State of Nevada, without au-
thority of the law and before the find-
ing of this indictment, did willfully,
unlawfully and burglariously break
and enter the building of one Alexander
Burrell."

Counsel for defendant in his or
their brief, if an unsigned paper in the
usual form of a brief found among the
papers in the case as they appear filed
in this court, is by us treated as a
brief, say:

"Appellant claims that this in-
dictment is not good at common law, be-
cause the words 'or thereabouts', re-
late to and qualify the words 'night
time'. This question was not raised in
the court below, but is here pre-
sented for the first time.

The question is not whether the in-
dictment would be good 'at common
law'; it is whether it is good under
the statute of Nevada that governs
the subject. The subject is governed
by the sections following concerning
indictments:

Section 4199, Compiled Laws, 1905,
provides that the indictment shall
contain "..... a statement of
the acts constituting the offense, in
ordinary and concise language, and in
such manner as to enable a person of
common understanding to know what
is intended."

Section 4206, Compiled Laws, 1905,
has the following: "The words used
in an indictment shall be construed
in the usual acceptance in common
language, except such words and
phrases as are defined by law, which
are to be construed according to their
legal meaning."

Section 4208, Compiled Laws, 1905,
provides: "That the act or omission
charged as the offense is clearly and
distinctly set forth in ordinary and
concise language, without repetition,
and in such a manner as to enable a
person of common understanding to
know what is intended."

"No indictment shall be deemed
insufficient, nor shall the trial, judg-
ment, or the proceeding thereon, be
affected, by reason of any defect or
imperfection, in matters of form,
which shall not tend to the prejudice
of the defendant."

The foregoing enactments show that
it was the intention of the legislature
of Nevada that in construing in-
dictments the courts should not indulge
in a too exact and over-zealous view
of language; but that certainty to a
common intent was all that should be
required.

True, in the paragraph of the in-
dictment under discussion, there is
something of a departure from the
best models of grammatical, rhetori-
cal or linguistic expression. But we
think the paragraph meets the
requirement of the statute that "the
acts constituting the offense should be
charged in ordinary and concise lan-
guage, and in such manner as to en-
able a person of common understand-
ing to know what is intended." To
hold the indictment not fatally bad is
we think, to keep within the statu-
tory command, as expressed above
in section 4206, or at least not to de-
part too far from such command, to
will, to construe "in the usual ac-
ceptance in common language."

We think the defect of the in-
dictment complained of was such as in
the language of Section 4209, above quoted
was a "defect or imperfection in
matters of form, which did not tend
to the prejudice of the defendant."

"The language of the indictment
could doubtless be made more ac-
curate; but we think it is not fatally
defective. The brief of Counsel for de-
fendant in the following correction is of-
fered:

"If the words 'or thereabouts' had
been inserted after the words 'on the
11th day of May 1904', the in-
dictment would not be the subject of criti-
cism or assault."

Perhaps the following amendment
might be considered an improvement
on the paragraph of the indictment:

"The said Paul Lovelace did, in the
night time of the 11th day of May,
1904, or in the night time of some
day thereabouts the said 11th day
of May, 1904, enter, etc."

Said Paul Lovelace did, in the night
time, on or about the 11th day of
May, 1904, enter, etc."

which neither be considered a bet-
ter collocation of words, although
this is something of a departure from
the form prescribed in the statute con-
cerning the form of indictments.

That mere grammatical, construc-
tional or verbal "free collages" may
be allowed, rhetorical or linguistic
ones does not always vitiate is fur-
ther sustained by decisions of courts and
text writers. The following notably
excellent authority is cited to sus-
tain this doctrine:

Cyclopedia of Law and Procedure
(Cyc.) vol. 6, page 199; and authori-
ties there mentioned.

While this indictment, in the respects
mentioned is in truth maritally de-
ficient, yet under the statutes and the
authorities above stated, we cannot
say that it is fatally defective. The
sections of the statute above quoted
show that the legislative intent was
that the courts of the State should
give interpretations liberal to sustain
rather than rigid to overthrow in-
dictments when, as in this case sub-
stantial rights of defendants are not there-
by prejudiced; and as we have from
the authority mentioned seen that
even under the common law to over-
throw this indictment would seem too
rigid an interpretation.

Under the second head the error
claimed is stated in the brief of Coun-
sel for defendant as follows:

"On the trial of appellant the de-
position of one Ross, taken at the pre-
liminary examination was read in
evidence, because he broke jail and
escaped before the trial and his pres-
ence could not be procured.

"He testified that he and appellant
entered the store of Alexander Burrell
on the day named in the indictment,
stole a lot of amalgam of the value
of about \$2400, and buried it a short
distance from the scene of the crime.

Appellant claims there was no testi-
mony corroborative of that of Ross,
and that a conviction could not be
had."

In this contention Counsel is, we
think, clearly mistaken. Besides
minor points of corroboration, not nec-
essary to be mentioned here, the tes-
timony of the witness W. J. Davidson
corroborates the testimony of the ac-
complice Ross. Davidson testifies that
the defendant requested him (David-
son) "to help him rob the store at
Edgemont"; that is the store that was
robbed. Davidson further testifies
that the defendant "told him he would
have got the amalgam if something
had not happened"—the amalgam was
the article stolen in the robbery.

Davidson further testifies that the de-
fendant was trying to dispose of the
amalgam, the thing stolen; and asked
Davidson this question: "What
am I going to do about that damned
stuff?"

If this testimony was true, and its
truth was a question entirely for the
jury, there was corroboration of the
testimony of the accomplice Ross.

Defendant fails in sustaining either
of his two points urged in argument
for the reversal of the judgment.

The judgment is therefore affirmed.
Fitzgerald, C. J.

We Concur:
Talbot, J.
Norcross, J.

Filed January 4, 1906.

TOURIST EXCURSION PARTIES TO THE EAST.

Over the Scenic Line of the World.

If you are going east and want to
save money, yet travel with pleasure
and comfort it will pay you to in-
vest our personally conducted tourist
excursions. The parties are in charge
of a Manager who accompanies the
cars through t oSt. Louis, Chicago
and the Atlantic Coast and gives his
personal attention to the welfare of
each passenger in his charge. The
schedules are arranged so you pass
through the world-famed scenery on
the Denver and Rio Grande Railroad
by daylight. Open-top Observation
cars (something entirely new) are
free to all passengers. Let us know
where you are going and we will
be glad to give you full information
about your trip, the lowest rates of
fare and send you free of charge some
handsome illustrated books of travel.

W. J. SHOTWELL,
General Agent.

925 Market Street, San Francisco, Cal.

Cattle and Horses.

The City Marshal gives warning
that all loose stock found on the
streets from this time on will be em-
pounded. A strict attention to this
warning will be enforced and warn-
ing city ordinance will be enforced and
ing. Responding fines will be imposed
in every case.

Wm. Kinney,
Marshal.

LADIES: I make from \$18 to \$20
per week and want all to have the
same opportunity. The work is very
pleasant and will pay you very har-
dly for your spare time. I
speak from experience as I have fre-
quently made \$5.00 in a single day.
This is no deception. I want no
money and will gladly send full pa-
tience to all. Address.

MRS. W. W. MITCHELL,
Box 10, Portland Maine.

Notice to Hunters.

Notice is hereby given that any
person found hunting without a permit
on the premises owned by Theodore
Winters, will be prosecuted. A lim-
ited number of permits will be sold
at \$5 for the season or 50 cents for
one day.

A. C. WINTERS.

Take a look at the new ties that
are being shown at Platt's.

Ward is closing out his \$20.00
stock at a sacrifice. This is an op-
portunity for Christmas shoppers.

Liberal Offer.

I beg to advise my patrons that the
price of disc records (either Victor
or Columbia), to take effect imme-
diately, will be as follows until fur-
ther notice:

Ten inch disks formerly 70 cents
will be sold for 60 cents.

Seven inch records formerly 50c.
now 35c. Take advantage of this of-
fer.

C. W. FRIEND.

ORDINANCE NO. 112.

On Ordinance for the Licensing of
Games and Gambling Devices in
Carson City.

The Board of Trustees of Carson
City do ordain:

Section 1. Each and every person,
firm, company, corporation, or asso-
ciation within the limits of Carson
City, who shall carry on as agent,
manager, owner or proprietor, any
game of faro, roulette, rondo, keno,
or any other game not prohibited by
the statutes of the State of Nevada,
or who shall carry on or operate any
nickel-in-the-slot-machine, or who
shall carry on or conduct any bank-
ing game played with cards, dice or
other device, whether the same be
played with money, checks, credit or
any other valuable thing or repre-
sentative of value, shall pay for and
obtain a city license to carry on such
game, and shall pay for each license
twenty-five dollars (\$25.00) per month
provided that when more than one
of said games are carried on in the
same room or apartment, whether
by the same or different owners, each
game so carried on shall be separat-
ly licensed; and provided further,
that the license imposed by this Or-
dinance is for the revenue only, and
not for the purpose of prohibition,
suppression or regulation.

Section 2. The provisions of this
Ordinance shall apply to all time
on and after October 1, 1905.

Section 3. Ordinance Number 53
and all other ordinances or parts of
Ordinances in so far as they conflict
with the provisions of this Ordi-
nance are hereby repealed.

President of the Board of City Trus-
tees of Carson City, Nevada.

Attest:
H. B. Van Etten, Clerk.

OFFICIAL COUNT OF STATE
FUNDS.

County of Ormsby, s. s.

James G. Sweeney being duly sworn
say they are members of the
Board of Examiners of the State of
Nev. that on the 29th day of Nov '05
they, (after having ascertained from
the books of the State Controller the
amount of money that should be in
the Treasury) made an official exami-
nation and count of the money and
vouchers for money in the State Treas-
ury of Nevada and found the same
correct as follows:

Coin \$151,107.29

Paid coin vouchers not re-
turned to Controller 16,835.71

Total 167,943.00

State School Fund Securities.

Irredeemable Nevada State
School bonds 350,000.00

Mass. State 3 per cent
bonds 537,000.00

Nevada State Bonds 252,700.00

Mass. State 3 1/2 per cent
bonds 347,000.00

United States Bonds 215,000.00

Total \$1,566,843.00

W. G. Douglas,
James G. Sweeney

Subscribed and sworn before me this
29th day of November, A. D. 1905.

J. Doane,
Notary Public, Ormsby County, Nev.

ANNUAL STATEMENT

Of The State Life Insurance Com. and
Indemnity, Ind.

Capital paid up \$1,000,000.00

Assets (admitted) \$1,000,000.00

Liabilities exclusive of cash 465,197.62

Income

Premiums 400,000.00

Other sources 187,125.00

Total income, 1904 587,125.00

Expenses

Losses 300,000.00

Dividends 65,210.00

Other expenditures 1,050,102.70

Total expenditures, 1904 1,415,312.70

Business, 1904

Policies written 23,376,143.00

Premiums thereon 805,658.00

Losses incurred 316,885.00

Risks written 10,000.00

Premiums received 2,852.41

Losses paid 5,000.00

W. S. Wynn Secretary

New lines of footwear ar-
rived at E. J. Burlington's 3-1-05.

He has been con- sider-
ing delay in freight

and best lines sh-
owed in his store an. prices are at

ways the lowest. You can save
money by purchasing footwear at
his store.

Quarterly Report.

OFFICE COUNTY AUDITOR
Ormsby County, Nevada.

To the Honorable, the Board of Coun-
ty Commissioners, Gentlemen:

In compliance with the law, I
herewith submit my quarterly re-
port showing receipts and disburse-
ments of Ormsby County, during
the quarter ending Dec. 30, 1905.

Receipts.

Balance in County Treasury at
end of last quarter \$100,233.36

County Licenses 701.05

Gaming Licenses 1,057.50

Liquor Licenses 310.20

Fee of Co. officers 531.40

Rent of county bldg. 250.00

Poll taxes 629.40

1st. Instalment taxes 14,924.21

Special school tax 17,170.99

Slot machine license 282.00

Cigarette license 42.30

Semi-Annual Set. State Treas 531.78

Delinquent taxes 23,801.4

Sale of horse 19.00

Sale of pump 13.00

Keep of W. Bowen 45.00

Total 61,077.36

Disbursements.

State fund 6,692.82

General fund 2,732.32

Salary fund 2,390.00

Ag. Assn. Bond Fund, Series
A. \$100.00 250.00

Ag. Assn. Bond Fund, Series
B \$100.00 400.00